UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,443	07/24/2003	Michael Hogan	2002P12271US01	9636

7590   09/04/2008

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER
COUGHLAN, PETER D

ART UNIT	PAPER NUMBER
2129	

MAIL DATE	DELIVERY MODE
09/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Advisory Action **Before the Filing of an Appeal Brief**	**Application No.** 10/626,443	**Applicant(s)** HOGAN, MICHAEL
		Examiner PETER COUGHLAN	**Art Unit** 2129

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>18 August 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☒ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>*1-44*</u>.

   Claim(s) withdrawn from consideration: <u>*45*</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

   See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/David R Vincent/
Supervisory Patent Examiner, Art Unit 2129

Continuation of 3. NOTE: The amended claims raise the issue of automatically detected hierarchy amoung elements.

Continuation of 11. does NOT place the application in condition for allowance because: Claims 1-44 pertain to a batch process and configuration of pharmaceuticals while claim 45 pertains to the fast food restaurant industry. Pharmaceuticals are not equivalent to the fast food restaurant industry.

Amended claims are not considered due to the fact they require additional searches. Amended claims 1, 43, 44 will not be addressed.
In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is not what individual references themselves suggest but rather what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re Keller, 648 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Sernaker, 702 F.2d 989, 217 USPQ 1 (Fed. Cir. 1983); In re McLaughlin, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek, 163 USPQ 545 (CCPA 1969).
The Applicant states that the limitations of claim 1 are not addressed. The Applicant believes 'Biopharmaceutical batch process control system' of applicant is not equivalent to 'batch oriented process control systems including for example process control systems that produce pharmaceuticals' of Brown. The Examiner disagrees. The Applicant feels 'Hierarchy among elements of the configuration' of applicant is not illustrated by 'received a second message containing a set of batch information in response to the first message requesting … using a graphical user interface and prompts a user to enter a first input identifying a subset of set of batch information from the displayed set of batch information from the displayed set of batch information to be included within at least one batch of the plurality of batches' of Dietz. The Examiner disagrees. The Applicant suggests 'First transformed version of the configuration information using user input to obtain a second transformed version of the configuration information' of applicant is not equivalent to 'editing' of Dietz. The Examiner disagrees. The Applicant believes it is not illustrated that 'DHTML logic' of applicant is not true 'logic' in the classical definition of 'logic.' DMTHL is a combination of a number computer languages which enable web pages to be dynamic. Thus since Dietz is able to be edited and be used over the internet, then DHTML is inherent. The Examiner disagrees. The Applicant feels 'Expressing the first transformed version and the second transformed' of applicant is not disclosed by the ability to 'monitor the campaign status' of Dietz. The Examiner disagrees.

The Applicant states that the limitations of claim 2 are not addressed. The Applicant suggests one example of a 'common format' of applicant is not equivalent to 'XML' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 3 are not addressed. The Applicant believes 'user definable syntax' of applicant is not equivalent to 'configurable maping language' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 4 are not addressed. The Applicant feels one example of a 'XML' of applicant is not equivalent to 'XML' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 5 are not addressed. The Applicant suggests 'Bailey INFI-90' of applicant is not equivalent to 'INFI 90 available from Bailey' of Payson. The Examiner disagrees.

The Applicant states that the limitations of claim 6 are not addressed. The Applicant believes 'WinCC' of applicant is not equivalent to 'WinCC' of Talanis. The Examiner disagrees.

The Applicant states that the limitations of claim 7 are not addressed.
The Applicant feels that parsing the information, the information obtained from an APACS control system configuration database is not disclosed by Mylopoulos. The Examiner disagrees.

The Applicant states that the limitations of claim 8 are not addressed. The Applicant feels one example of a 'XML' of applicant is not equivalent to'XML' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 9 are not addressed. The Applicant suggests 'XSLT transform' of applicant is not equivalent to 'XSLT as a scripting language' of Moore. The Examiner disagrees.

The Applicant states that the limitations of claim 10 are not addressed. The Applicant believes 'XSLT transform' of applicant is not equivalent to 'XSLT as a scripting language' of Moore. 'Generating DHTML' of applicant is not equivalent to using as a presentation language of DHTML of Moore. The Examiner disagrees.

The Applicant states that the limitations of claim 11 are not addressed. The Applicant feels 'generating DHTML' of applicant is not equivalent to using as a presentation language of DHTML of Moore. A 'presentation language' of Moore is not equivalent to 'translating an element of the information' of applicant. The Examiner disagrees.

The Applicant states that the limitations of claim 12 are not addressed. The Applicant suggests 'options' of applicant is not equivalent to 'commands' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 13 are not addressed. The Applicant believes 'interpreting' of applicant is not equivalent to the presentation language function. The Examiner disagrees.

The Applicant states that the limitations of claim 14 are not addressed. The Applicant feels 'options' of applicant is not equivalent to 'commands' of Jayaram. 'Graphical user interface' of applicant is not equivalent to 'GUI' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 15 are not addressed. The Applicant suggests 'presenting a plurality of options of applicant is not equivalent to 'constructs in a selectable list' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 16 are not addressed. The Applicant believes 'Plurality of users' of applicant is not disclosed by the delivery of the object program to the users of Koizumi. The Examiner disagrees. The Applicant feels 'Plurality of options' of applicant is not equivalent to 'commands' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 17 are not addressed. The Applicant suggests 'plurality of users' of applicant is not disclosed by the delivery of the object program to the users of Koizumi. The Examiner disagrees. The Applicant believes 'presenting a plurality of options of applicant is not equivalent to 'constructs in a selectable list' of Jayaram. 'Translating an element' of applicant is not disclosed by the 'database conversion engine' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 18 are not addressed. The Applicant feels 'graphical user interface' of applicant is not equivalent to 'GUI' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 19 are not addressed. The Applicant suggests 'translating an element of the information' of applicant is not equivalent to 'the GUI may further include a mapping language parser to ensure that any mapping dependency constraints are fulfilled' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 20 are not addressed. The Applicant believes 'graphical user interface' of applicant is not equivalent to 'graphical user interface' of Deitz. The Examiner disagrees.

The Applicant states that the limitations of claim 21 are not addressed. The Applicant feels 'plurality of users' of Nixon is not equivalent to 'one or more users' of Nixon. 'Receiving input from each of a plurality of users' of applicant is not equivalent to 'each user interface routine can receive' of Nixon. 'Preference adapted for use in translation' of applicant is not equivalent to 'information from the asset utilization suite' of Nixon. The Examiner disagrees.

The Applicant states that the limitations of claim 22 are not addressed. The Applicant suggests 'plurality of users' of applicant is not disclosed by the delivery of the object program to the users of Koizumi. The Applicant believes in this example, 'first user' of applicant is not equivalent to 'engineering supervisors of Betawar. Second user of applicant is not equivalent to 'lower level line engineers'. The Examiner disagrees.

The Applicant states that the limitations of claim 23 are not addressed. The Applicant feels 'tracking' of applicant is not equivalent to 'tracking are published' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 24 are not addressed. The Applicant suggests 'providing an audit trail' of applicant is not equivalent to 'tracking are published' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 25 are not addressed. The Applicant believes 'providing an audit trail' of applicant is not disclosed by 'tracking are published through a report' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 26 are not addressed. The Applicant feels 'repeating said applying activity' of applicant is not equivalent to the 'fail' arrow from 'business requirement compliance check' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 27 are not addressed. The Applicant suggests 'repeating said transforming activity' of applicant is not equivalent to 'the 'fail' arrow from the 'database attribute compliance check' of Jayaram. The Examiner disagrees.

The Applicant states that the limitations of claim 28 are not addressed. The Applicant believes 'providing a view' of applicant is not equivalent to 'graphical views' of Nixon. The Examiner disagrees.

The Applicant states that the limitations of claim 29 are not addressed. The Applicant feels 'plurality of differing views' of applicant is not equivalent to 'one or more pull down menus' of Nixon. The Examiner disagrees.

The Applicant states that the limitations of claim 30 are not addressed. The Applicant suggests 'graphical user interface' of applicant is not equivalent to 'GUI' of Nixon. The Examiner disagrees.

The Applicant states that the limitations of claim 31 are not addressed. The Applicant believes 'second transformed version' of applicant can not be seen as the 'different types of information' of a user. 'Graphical user interface' of applicant is not equivalent to 'GUI' of Nixon. The Examiner disagrees.

The Applicant states that the limitations of claim 32 are not addressed. The Applicant feels 'second transformed version based on the first' of applicant can not be seen as the 'hierarchy represents' of a user. The Examiner disagrees.

The Applicant states that the limitations of claim 33 are not   addressed. The Applicant suggests 'not based on the first transform'

of applicant is not equivalent to 'different sets' of Nixon. The Examiner disagrees.

The Applicant states that the limitations of claim 34 are not addressed. The Applicant believes 'pattern matching rule' of applicant is not equivalent to 'translation rules' of Koizumu. 'Knowledge elements' and 'known relationship' of applicant is not illustrated by the function of the ARM (abstract register machine) of Koizumu. The Examiner disagrees.

The Applicant states that the limitations of claim 35 are not addressed. The Applicant feels 'XSLT transform' of applicant is not equivalent to 'XSLT as a scripting language' of Moore. The Examiner disagrees.

The Applicant states that the limitations of claim 36 are not addressed. The Applicant suggests 'patterns is a set' of applicant is not disclosed by 'different sets' of Nixon. The Examiner disagrees.

The Applicant states that the limitations of claim 37 are not addressed. The Applicant believes 'patterns is a hierarchy' of applicant can not be seen as the 'hierarchy represents' of a user. The Examiner disagrees.

The Applicant states that the limitations of claim 38 are not addressed. The Applicant feels; "naming convention' of applicant is not illustrated by the examples of 'Mixing-reagent1', 'Mixer-in1', 'Mixer-reagent2', 'Mixer-in2', 'Mixer-feed', 'Mixer-in', "Static mixer' and 'Mixer-out' of Nixon. The Examiner disagrees.

The Applicant states that the limitations of claim 39 are not addressed. The Applicant suggests Nixon does not disclose that one or more users can subscribe to the same or different sets of data. The Examiner disagrees.

The Applicant states that the limitations of claim 40 are not addressed. The Applicant believes 'first user' of applicant is not equivalent to 'lower level line engineers' of Betawar. 'Input is derived' and 'input from a second user' of applicant is not illustrated by the supervisor being able to edit parameters. The Examiner disagrees.

The Applicant states that the limitations of claim 41 are not addressed. The Applicant feels 'different position' of applicant is not equivalent to the difference 'lower level line engineers' and 'engineering supervisors' of Betawar. The Examiner disagrees.

The Applicant states that the limitations of claim 42 are not addressed. The Applicant suggests 'first user' of applicant is not equivalent to 'lower level line engineers' of Betawar. 'Input is derived' and 'input from a second user' of applicant is not illustrated by the supervisor being able to edit parameters. The Examiner disagrees.

The Applicant states that the limitations of claim 43 are not addressed.
The Applicant believes 'biopharmaceutical batch process control system' of applicant is not equivalent to 'batch oriented process control systems including for example process control systems that produce pharmaceuticals' of Brown. The Examiner disagrees. The Applicant feels 'hierarchy among elements of the configuration' of applicant is not illustrated by 'received a second message containing a set of batch information in response to the first message requesting … using a graphical user interface and prompts a user to enter a first input identifying a subset of set of batch information from the displayed set of batch information from the displayed set of batch information to be included within at least one batch of the plurality of batches' of Dietz. The Examiner disagrees. The Applicant suggests 'first transformed version of the configuration information using user input to obtain a second transformed version of the configuration information' of applicant is not equivalent to 'editing' of Dietz. The Examiner disagrees. The Applicant believes 'DHTML logic' of applicant is not true 'logic' in the classical definition of 'logic.' DMTHL is a combination of a number computer languages which enable web pages to be dynamic. Thus since Dietz is able to be edited and be used over the internet, then DHTML is inherent is a false statement. The Examiner disagrees. The Applicant feels 'expressing the first transformed version and the second transformed' of applicant is not disclosed by the ability to 'monitor the campaign status' of Dietz. The Examiner disagrees.

The Applicant states that the limitations of claim 44 are not addressed.
The Applicant suggests 'biopharmaceutical batch process control system' of applicant is not equivalent to 'batch oriented process control systems including for example process control systems that produce pharmaceuticals' of Brown. The Examiner disagrees. The Applicant believes 'hierarchy among elements of the configuration' of applicant is not illustrated by 'received a second message containing a set of batch information in response to the first message requesting … using a graphical user interface and prompts a user to enter a first input identifying a subset of set of batch information from the displayed set of batch information from the displayed set of batch information to be included within at least one batch of the plurality of batches' of Dietz. The Examiner disagrees. The Applicant feels 'first transformed version of the configuration information using user input to obtain a second transformed version of the configuration information' of applicant is not equivalent to 'editing' of Dietz. The Examiner disagrees. The Applicant suggests 'DHTML logic' of applicant is not true 'logic' in the classical definition of 'logic.' DMTHL is a combination of a number computer languages which does not enable web pages to be dynamic. Thus since Dietz is able to be edited and be used over the internet, then DHTML is inherent. The Examiner disagrees. The Applicant believes 'expressing the first transformed version and the second transformed' of applicant is not disclosed by the ability to 'monitor the campaign status' of Dietz. The Examiner disagrees..